

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NAZHAE PATRICIA OLLIE
TRAYLOR, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHEMIKA TRAYLOR,

Respondent-Appellant

and

WILBERT CARTER,

Respondent.

UNPUBLISHED

October 23, 2003

No. 246127

Wayne Circuit Court

Family Division

LC No. 01-402565

Before: Bandstra, P.J., and Hoekstra and Borrello, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), (h), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E)(1)(b).

The trial court clearly erred by finding that § 19b(3)(h) was established because respondent would be released from prison less than two years from the termination hearing. *In re Perry*, 193 Mich App 648, 650; 484 NW2d 768 (1992). However, the trial court did not clearly err in finding that §§ 19b(3)(c)(i), (g), and (j) were established by clear and convincing evidence. MCR 5.974(I);¹ *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*,

¹ Effective May 1, 2003, the court rules governing proceedings regarding juveniles were amended and moved to the new MCR subchapter 3.900. In this opinion, we refer to the rules in effect at the time of the order terminating parental rights. See *In re JK*, ___ Mich ___; 661 NW2d 216 (Docket No. 121410, rel'd May 20, 2003), slip op p 9, n 17.

433 Mich 331, 337; 445 NW2d 161 (1989). The conditions leading to adjudication included failure to protect from sexual abuse and failure to provide stable and suitable housing. Respondent-appellant was incarcerated at the time of the termination hearing and obviously could not provide housing for the child. Before her incarceration, respondent-appellant was living with a brother who was selling drugs out of the home. Moreover, respondent-appellant failed to complete individual counseling to address her denial that the child had been sexually abused.

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). There was evidence that the child and respondent-appellant were bonded to each other. However, before these proceedings began, the child had been living with a relative in Arkansas for approximately a year. Once the child was removed from respondent-appellant, respondent-appellant visited the child only three times in 2001 and did not see the child at all during 2002.

Affirmed.

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

/s/ Stephen L. Borrello